

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

**CODE OF VIRGINIA
§ 45.1-361.26****VIRGINIA:****BEFORE THE GAS AND OIL BOARD****APPLICANTS:**

CNX Gas Company LLC on behalf of Connie L. Davidson and Coal Mountain Mining Co. seeking disbursement of funds in Tract 4 of Unit Z-35. Further Connie L. Davidson is entitled to 100% of Escrow and royalties according to Judge Keary Williams Civil Action No CL10-155 in the Circuit Court of Buchanan County, May 25, 2010.

DOCKET NO.**97-0916-0600-01****RELIEF SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds
Action: Amending Prior Orders Affecting Drilling Z-35,
Tract 4
(Referenced herein as "the Subject Drilling Unit")

Location: Buchanan County, Virginia

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit Z-35 by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's

**REPORT OF
THE BOARD****FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on July 20, 2010 at the Russell County Government, Conference Center, 139 Highlennad Drive in Lebanon, VA.
2. **Appearances:** Mr. Mark A Swartz, Attorneys at Law, Swartz Law Offices PLLC appeared for the Unit Operator; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract sub accounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract sub accounts. The Board finds that: (1) while it **does not** have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it **does not** have jurisdiction to interpret agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, **the Board does have jurisdiction and authority to disburse funds from the Escrow Account** provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided

interest therein. On May 25, 2010, in Civil Action No CL10-155 in the Circuit Court of Buchanan County, Judge Keary Williams entered a final order declaring Connie L. Davidson is entitled to 100% of the Royalties of her ownership in Tract 4 of gas unit Z-35, adjudicating the ownership of coalbed methane gas previously in conflict between the Charles Davidson heir and Coal Mountain Mining Company L.P.

4. **Prior Proceedings:**

- 4.1. (a) On September 16, 1997 the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on November, 13, 1997, Deed Book 470, and Pages 102 to 119, Instrument Number 970003154. The Board executed its Supplemental Order Regarding Elections that was filed with the Clerk of the Circuit Court of Buchanan County on April 29, 1998, Deed Book 475, Pages 329 to 335.
- 4.2. To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, the coal estate ownership interests of Coal Mountain Mining Company LP and the gas ownership interests of the Charles Davidson heirs in Tract 4 in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Miscellaneous Petition regarding Tract 4, a copy of which is attached to and made a part hereof, states under oath that Coal Mountain Mining Company LP and Connie L. Davidson, heir of Charles Davidson have received a Final Order by Judge Keary Williams from the Circuit Court of Buchanan County in Civil Action CL10-155, adjudicating the ownership of coalbed methane gas for Tract 4 in gas unit Z-35. The Final Order by Judge Williams declared Connie L. Davidson is entitled to 100% of the Royalties for Tract 4 in gas unit Z-35 and the total of previous royalties paid into escrow for Tract 4.
- 4.4. The Unit Operator gave notice to Coal Mountain Mining Company LP and Connie L. Davidson, the Board would receive and hear the Circuit Court's Final Order and take action regarding its disbursement authorization at its hearing on July 20, 2010 and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to Tract 4 identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 4 relative to the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) **close** the escrow account under this docket number because there are no other parties under this order subject to continued payments in the escrow.
- 4.5. The Unit Operator filed the Circuit Court's Final Order in Civil Action CL10-155 and the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. **Va. Code 45.1-361.22.5 provides:**

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

5.2 Applicant has certified and represented to the Board that:

- (1) Coal Mountain Mining Company LP and Connie L. Davidson, heir of Charles Davidson in Tract 4, have received a decision from Judge Keary Williams and the Circuit Court of Buchanan County, Civil Action CL10-155, declaring Connie L. Davidson is entitled to 100% of royalties from the Subject Drilling Unit Z-35;
- (2) Net interests attributable and to be disbursed to Applicants are shown in **Table 1**,

VGOB Approved Disbursement
 VGOB-97-0916-0600-01
 Z-35

			Frac Interest	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
Table 1							
Item	Tract	Disbursement Table					
		Totals				17.65000	
			17.65				
1	4	Coal Mountain Mining Co Tra 11	1	17.65000	0.0%	-	0.0000%
2	4	Connie L. Davidson / 2121 Sandy Gap Road / Raven, VA 24639	1	17.65000	100.0%	17.650	100.0000%
		By Order of Judge Keary Williams in Circuit Court of the County of Buchanan; Civil Action CL10-155					

6. **Relief Granted:**

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing conflicting owners subject to escrow, is deleted and replaced with the Exhibit EE attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, **and**, because there are **no other** owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to **close** the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. **Conclusion:**

Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. **Appeals:**

Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo. Because this action follows an ordered by Judge Keary Williams from the Circuit Court of Buchanan County in Civil Action CL10-155, any appeal would require further court action and appeal of Judge William's decision of May 25, 2010. Such action would is beyond the jurisdiction and state authority of the Virginia Gas and Oil Board.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 2 day of August, 2010 by a majority of the Virginia Gas and Oil Board.

Bradley C. Lambert
Bradley C. Lambert, Chairman

DONE AND PERFORMED this 2 day of August, 2010 by an Order of this Board.

David E. Asbury Jr.
David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Russell Acknowledged on this 2 day of August, 2010, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

Diane J. Davis
Diane J. Davis
Notary Public #174394

My commission expires: 09 / 30 / 2013



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

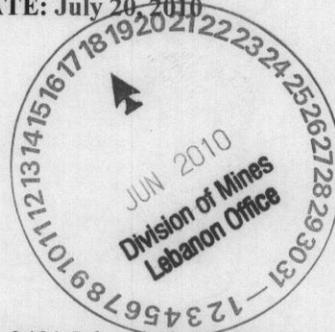
DIVISION OF GAS AND OIL
DOCKET NO: VGOB 97-0916-0600-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 4
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: July 20, 2010

DRILLING UNIT: Z-35

BUCHANAN COUNTY, VIRGINIA



MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 4 as depicted upon the annexed Exhibit A; and (2) authorization to begin paying royalties directly to Connie L. Davidson as she is entitled to 100% of the Royalties according to the final order which was entered by Judge Keary Williams on May 25, 2010, Civil action No :CL10-155, adjudicating the ownership of coalbed methane gas.

3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. **Type of well(s):** Coalbed methane.

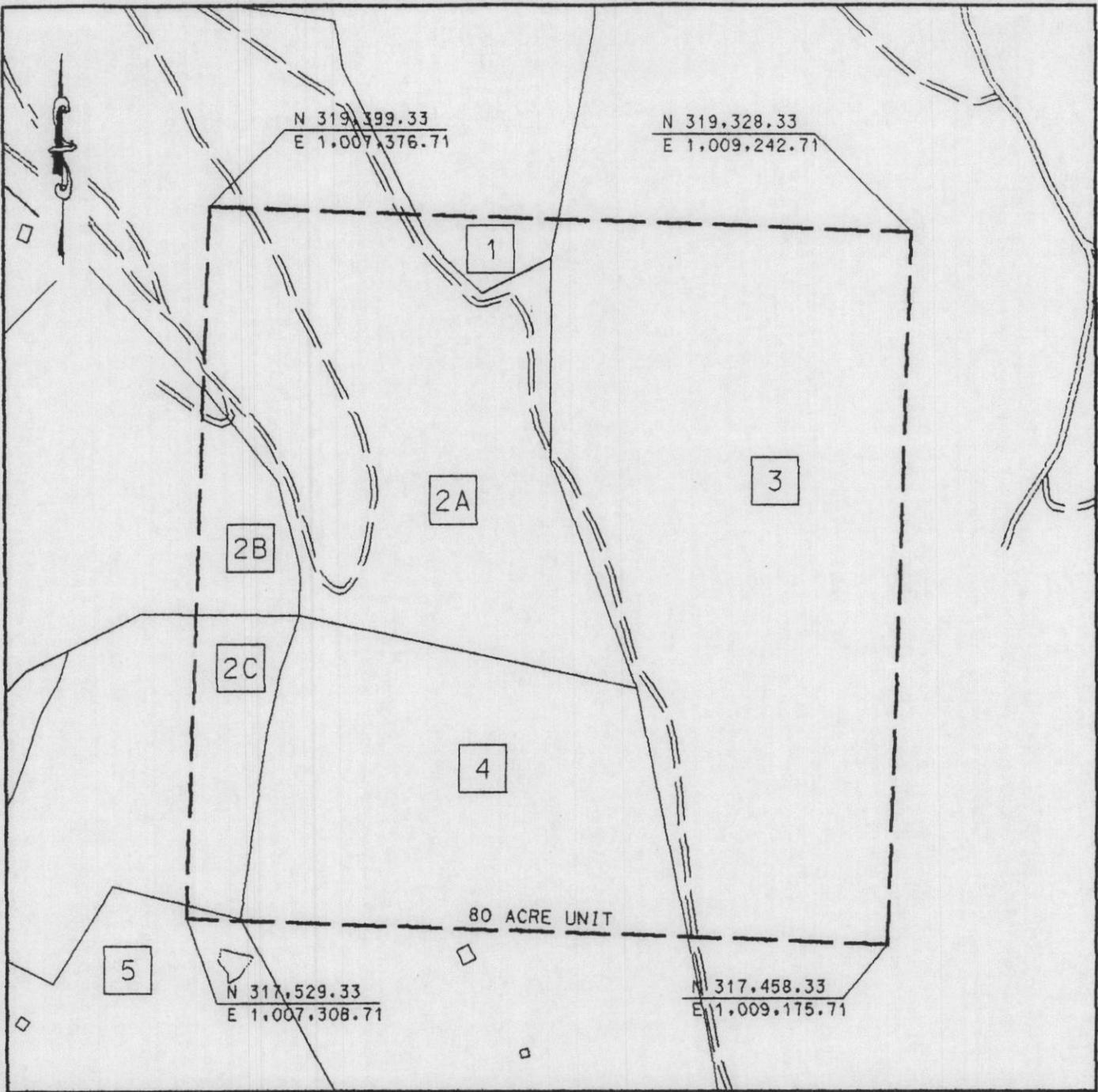
5. **Factual basis for relief requested:** Connie L. Davidson is entitled to 100% of the Royalties according to the final order which was entered by Judge Keary Williams on May 25, 2010, Civil action No :CL10-155, adjudicating the ownership of coalbed methane gas. This also allows the Applicant and Designated Operator to pay royalties directly to the person identified in Exhibit EE annexed hereto and the annexed Exhibit A, further, specifies how said royalties are to be paid. *(No further conflicts exist, therefore the account should be closed after the disbursement)*

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

By: _____

Anita D. Duty
Anita D. Duty
Pooling Supervisor
CNX Land Resources, Inc.
2481 John Nash Blvd.
Bluefield, West Virginia 24701



LEGEND

- TRACT LAND HOOK
- 2 TRACT LAND ID'S

EXHIBIT A
 OAKWOOD FIELD UNIT Z-35
 FORCE POOLING
 VGOB-97-09-16-0600

Company Pocahontas Gas Partnership Well Name and Number UNIT Z35
 Tract No. _____ Elevation _____ Quadrangle Keen Mountain
 County Buchanan District Garden Scale: 1" = 400' Date 7/28/97
 This plat is a new plat X ; an updated plat _____ ; or a final plat _____

Form DGO-GO-7 _____ (Affix Seal)
 Rev. 9/91 Licensed Professional Engineer or Licensed Land Surveyor

UNIT Z-35
Tract Identifications

1. Coal Mountain Mining Co. Tr 13 - Coal, Oil & Gas
Consolidation Coal Co. - Below drainage coal Leased
United Coal Company - Above drainage coal Leased
Consolidation Coal Co. - Oil & Gas Lessee
Pocahontas Gas Partnership - CBM Leased
Claude Kendrick - Surface
1.08 acres 1.3500%

2. Coal Mountain Mining Co. Tr 16 - Coal, Oil & Gas
Consolidation Coal Co. - Below drainage coal Leased
United Coal Company - Above drainage coal Leased
Consolidation Coal Co. - Oil & Gas Lessee
Pocahontas Gas Partnership - CBM Leased
27.32 acres 34.1500%

- 2A. Consolidation Coal Co. - Surface
2B. Consolidation Coal Co. - Surface
2C. David Rose - Surface

3. Commonwealth Coal Co. Tr 2 - Coal, Oil & Gas
Consolidation Coal Co. - Below drainage coal Leased
United Coal Company - Above drainage coal Leased
Consolidation Coal Co. - Oil & Gas Lessee
Commonwealth Coal Co. - Surface
33.90 acres 42.3750%

4. Coal Mountain Mining Co. Tr 11 - Coal
Consolidation Coal Co. - Below drainage coal Leased
United Coal Company - Above drainage coal Leased
Consolidation Coal Co. - Oil & Gas Lessee
Pocahontas Gas Partnership - CBM Leased
Charles Davidson - Surface, Oil & Gas
17.65 acres 22.0625%

5. Coal Mountain Mining Co. Tr 32 - Coal, Oil & Gas
Consolidation Coal Co. - Below drainage coal Leased
United Coal Company - Above drainage coal Leased
Consolidation Coal Co. - Oil & Gas Lessee
Pocahontas Gas Partnership - CBM Leased
David Rose - Surface
0.05 acres 0.0625%

Exhibit E
Unit Z-35
Docket #VGOB 97-0916-0600-01
List of Conflicting Owners/Claimants that require escrow

Net Acres in Unit	Interest in Unit	Division of Interest in		
		13-East 12.13977%	14-East 23.56593%	15-East 1.35593%

All conflicts resolved. Account should be closed after disbursement is made.

8

Exhibit EE
Unit Z-35
Docket #VGOB 97-0916-0600-01
List of Conflicting Owners/Claimants with Royalty Split Agreements and/or Court Order

	Net Acres in Unit	Interest in Unit	Division of Interest in			Percent of Escrow
			13-East 12.13977%	14-East 23.56593%	15-East 1.35593%	
<u>Tract #4 - 17.65 acres</u>						
<u>COAL OWNERSHIP</u>						
(1) Coal Mountain Mining Co. Tr 11 Limited Partnership P.O. Box 675 Tazewell, VA 24651	17.65 acres	22.0625%	2.67834%	5.19923%	0.29915%	n/a *
<u>OIL & GAS OWNERSHIP</u>						
(1) Charles Davidson Heirs, Devisees, Successors or Assigns						
(1.1) Connie Davidson (widow) 2131 Sandy Gap Road Raven, VA 24639	17.65 acres	22.0625%	2.67834%	5.19923%	0.29915%	100.0000%

* Connie L. Davidson is entitled to 100% of the Royalties according to the final order which was entered by Judge Keary Williams on May 25, 2010, Civil action No :CL10-155, adjudicating the ownership of coalbed methane gas.

**Tract-by-Tract Escrow Calculation
Account Balances as of 5/31/10**

**Unit Z35
VGOB 97-0916-0600-01
Acres Escrowed: 17.65000**

2

Owners	Tract #	Acres	Total Tract Percent of Escrow	Owners' Percent of Escrow	Amount Due Owners
Coal Mountain Mining Co., L.P.	4	17.65	100.00000%	n/a *	n/a *
Connie L. Davidson - CBM				100.00000%	\$56,755.51

* Connie L. Davidson is entitled to 100% of the Royalties according to the final order which was entered by Judge Keary Williams on May 25, 2010, Civil action No :CL10-155, adjudicating the ownership of coalbed methane gas.

Wells contributing to the escrow account: Z35A and Z35D

4. For a period of years, coalbed methane has been commercially produced from the Real Estate at issue; and, pursuant to Virginia law, the royalties from the sale of such coalbed methane have been escrowed under the direction of the Virginia Oil and Gas Board pending a determination as to the ownership of the coalbed methane.

5. Generally, coalbed methane is produced either in advance of mining, as part of the mining process, following mining or independently of mining. In order to produce coalbed methane commercially, the coal seam must be fractured either by artificial means or by the mining process.

6. With regard to the Real Estate at issue, the ownership of coalbed methane is simply a question of whether it is owned by the residual owners, the Plaintiff (who has never separately severed the gas or mineral interests except for coal) or the coal owner, Coal Mountain.

7. Coalbed methane is largely attached or "adsorbed" to the coal. Accordingly, the release of coalbed methane is inherent in coal mining; and ventilation for coalbed methane in coal mines is required by law.

Based on these findings, this Court rules as follows with regard to the Real Estate at issue:

(a) The coal owner or operator has the right to expel or ventilate the coalbed methane as an incident to mining. However, such rights do not give the coal owner any ownership rights to the other mineral estates not conveyed to the coal owners.

(b) The coal owner, Coal Mountain, does not own the coalbed methane, as the Severance Deed does not expressly grant coalbed methane, natural gases, or minerals in general.

(c) To the extent of their ownership in all estates other than coal, the Plaintiff owns the coalbed methane once it is no longer adsorbed in or attached to the coal.

(d) The Plaintiff has no right to fracture the coal. However, to the extent that the coal is fractured and coalbed methane is produced (even without mining activity) and sold to third parties, the Plaintiff is entitled to be compensated as owner of the coalbed methane.

(e) The coal owner, Coal Mountain and its lessees, Island Creek Coal Company and/or Consolidation Coal Company, have the right to use spaces opened underground for purposes incidental to mining on such tracts and others. However, such rights do not give Coal Mountain or Island Creek Coal Company and/or Consolidation Coal Company ownership of other minerals in such container or void space, including coalbed methane.

(f) The Plaintiff should be compensated as owner of the coalbed methane for any coalbed methane captured and sold to third parties before, during or after the mining and venting process.

(g) This Order is a final order adjudication of the rights of the Plaintiff to the coalbed methane on the Real Estate at issue. The Plaintiff shall be paid escrowed funds and future royalties from the production of coalbed methane on the Real Estate at issue according to their interests shown in any existing or revised Pooling Order(s) by the Virginia Gas and Oil Board. Distribution of escrowed funds shall be made on or before the time period specified by Virginia law.

(h) Pursuant to Virginia Code § 45.1-361.22(5)(i), the Board shall order payment of principal and accrued interest, less escrow account fees, from the escrow account to conflicting claimants only after (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tract in question or any undivided interest therein. Upon receipt

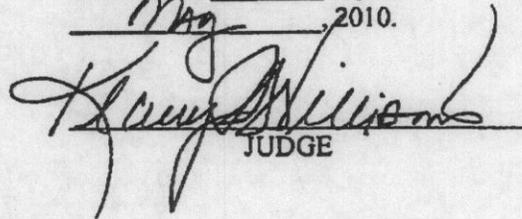
of an affidavit from conflicting claimants affirming such decision or agreement, the designated operator shall, within 30 days, file with the Board a petition for disbursement of funds on behalf of the conflicting claimants. The petition shall include a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The petition for disbursement shall be placed on the first available Board docket. Funds shall be disbursed within 30 days after the Board decision and receipt by the Department of all documentation required by the Board. The interests of any cotenants that have not been resolved by the agreement or by judicial decision shall remain in the escrow account; and further

8. The defendants Island Creek Coal Company, Consolidation Coal Company and CNX Gas Company LLC (together "CNX") make no claim to the escrowed royalties described in the complaint or to future royalties they or any of them may pay as a result of coalbed methane gas production activities upon the lands claimed by the plaintiff as described in the complaint. Therefore, CNX has no objection to the entry of this order insofar as it adjudicates the plaintiff's entitlement to such royalties. However, the specific findings and adjudications set out in this order shall be binding upon CNX only with respect to royalties claimed by the plaintiff as described in the complaint and shall not be binding upon CNX with respect to coalbed gas or royalties from other lands, nor shall any finding or adjudication set out in this

order be used as precedent in any other case or proceeding against CNX or any of its affiliates.

9. This action is hereby **ORDERED** and shall constitute a **FINAL ORDER** of this Court; and nothing further remaining to be done in this cause, it is hereby **ORDERED** stricken from the docket and filed among the ended causes. The Clerk is requested to send a certified copy of this Order to all counsel of record.

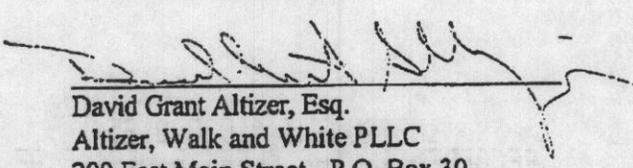
Entered this 25th day of
May, 2010.

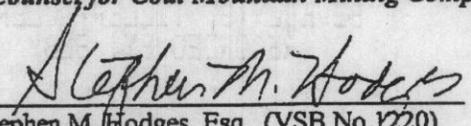

JUDGE

We ask for this Order:


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Counsel for Plaintiff

Seen without objections:


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Counsel for Island Coal Company, Consolidation Coal Company and CNX Gas Company, LLC

Virginia Information Technologies Agency



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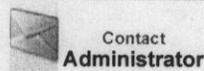
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hilareymullins@consolenergy.com